Privacy and Security Solutions for Interoperable Health Information Exchange

Final Michigan Implementation Plans Report

Subcontract No. 8-321-0209825

RTI Project No. 9825

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1. Background

Purpose and scope

The purpose of this report is to document the Michigan HISPC Team's implementation plans to develop and implement the solutions identified. The Michigan implementation plans were heavily affected by related projects running concurrently to the HISPC project as detailed below.

Key assumptions, limitations and other background information

During the short period the Michigan's HISPC project has been underway; several major related initiatives have been accomplished and implemented.

- **The Michigan Health Information Network (MiHIN) *Conduit to Care*** – In April 2006, the Michigan Department of Community Health (MDCH) and the Michigan Department of Information Technology (MDIT) brought together Michigan stakeholders to develop a vision and plan for the future of health information technology and exchange in Michigan, called the Michigan Health Information Network (MiHIN), *Conduit to Care* initiative.

  To accomplish this, a state-wide Steering Committee and six workgroups – clinical, financial, governance, legal, regional and technical were established to address specific issues, foster state-wide involvement and provide recommendations. Over 200 health care leaders and experts representing major health care organizations, public health agencies and public and mental health providers, government, providers, health care consumers and payers, information technology, academia, and others contributed their time and expertise to developing this report. The project team and workgroup leaders met in early April 2006. The workgroups were initiated in May 2006 and conducted research over 180 days with each workgroup meeting for over sixteen hours formally in addition to uncounted hours of work completed independently or in small groups outside of the formal meetings.

  The report is a roadmap for engaging all regions of the state in a Health Information Exchange (HIE) that will allow for the efficient, secure and electronic transfer of health information between disparate entities involved in a patient's care. Through HIE, pertinent health information can be available to physicians and other providers at the point of care. The overall goal for the MiHIN initiative is to improve the overall quality of healthcare and increase patient safety.

  MDCH and MDIT are currently working with the MiHIN participants to prioritize recommendations and develop strategies for moving forward.

- **Health Information Technology (HIT) Commission** – In May 2006, the Michigan Health Information Technology Commission was created by Public Act 137-06 and is an advisory commission within the MDCH. The mission of the Commission is "to facilitate and promote the design, implementation, operation, and maintenance of an interoperable health care information infrastructure in Michigan."

  The HIT Commission was appointed by the Governor in August of 2006 and met for the first time in October 2006. Although only required to meet quarterly, the Commission has chosen to meet monthly throughout 2007. Each commissioner represents a class of stakeholders including consumers, providers, payers, employers and hospitals.

  All HIT Commission meetings are open to the public. As such, the Commission has encouraged stakeholder feedback at each of their meetings. Also, the Commission has and plans to continue to invite regional HIEs to present information to the Commission about their initiatives and the challenges and successes they have experienced.

  The HIT Commission plans to work with communities and stakeholders to reduce barriers and challenges to HIE and promote the growth of HIE across the state.

- **Funding for Regional HIEs** – Michigan's fiscal year 2007 MDCH budget contains $5 million to support regional HIE initiatives. In December 2006, MDCH released a request for proposals to provide planning or implementation grants to support Michigan regions in the HIE endeavor. Using a portion of the $5 million available in the fiscal year 2007 MDCH budget, MDCH issued a request for proposals in December 2006 to implement the Michigan HIE Resource Center.

  The HIE Resource Center will play a major role in supporting regional information exchange, a critical component of health care efficiency, by offering guidance to align with national standards, resolve any conflicts between regional HIEs and to facilitate equitable and appropriate data sharing for the benefit of patients.

  The HIE Resource Center will support the State of Michigan's role as convener and collaborator for Michigan HIE. This centralized body will have the ability to bring different regional exchange initiatives together by providing parameters, guidelines and support, and bridging gaps between regional efforts that are in various stages of development. The HIE Resource Center will promote sustained efforts to: 1.) build governance structures; 2.) coordinate national, state, and local efforts; 3.) promote education; 4.) foster collaboration among stakeholders; 5.) raise consumer awareness, and 6.) develop financial and human resources. It will engage a variety of people including full and part time staff, workgroup volunteers, student interns, subject matter experts, faculty and consultants to keep abreast of national trends and local issues. Participants from previous and ongoing efforts, including MiHIN workgroups, state of Michigan departments, local regional health information

organizations, and participants in the HISPC project, will be drawn upon to move the process forward.

The creation of the HIT Commission, coupled with the funding of Regional HIE Initiatives will ensure that the process started by the MiHIN and the HISPC project will continue and be funded for the next 18 months.

2. Summary of Analysis of Solutions Report

Summary of Solutions

As Michigan's HISPC Solutions Workgroup (SWG) moved through the main barriers noted from the Variations Workgroup, several well defined themes arose:

1. **Organize Stakeholders** – All of the participants expressed a desire for the State to create a way for stakeholders to share their experience, determine the ways all of the regional efforts should cooperate and achieve consensus, and to provide recommendation on the State's role in the process. Based in part on the success to date of the MiHIN process (www.michigan.gov/mihin) the participants were unanimous in their support of a statewide effort to facilitate the process to seek stakeholder input and provide guidance and support for their HIE efforts.

   The goals of this organization would be to build consensus among stakeholders, identify best practices, educate consumers and providers, and provide tools and techniques that will simplify and reduce the financial burden on the adopters of HIE. Included in the wish list of deliverables from this organization are standard contracts, policies, technical standards and best practices, performance measures and metrics to determine if the anticipated benefits are indeed being realized.

2. **Communication and Education** – In addition to disseminating the information from the stakeholder forum, the SWG identified a number of messages that needed to be developed and delivered. The messages noted included: highlighting success stories such as MCIR and UPHCN, dispelling myths, reporting actual results of metrics analysis, and challenging perceived technical and legal barriers.

3. **Standards, Metrics and Controls** – The scenarios highlighted an area of HIE that few of the participants had really considered: access and use of PHI by non-covered entities, (e.g. State Police.) Understanding if and how this access will change in a totally electronic environment was a concern. Among the other issues the SWG wanted standards, metrics and controls defined to include: completeness and accuracy of datasets, authentication methodologies, interoperability, legal agreements and interpretations, and architectural design. The goal of this solution is to enhance trust in the systems and the participants over time.

4. **Use and Enhancement of Existing Resources** – There are a number of national organizations producing timely and useful information regarding the implementation of HIE. The challenge is keeping up with all of them. In addition, the SWG noted that the HIE effort could be used to improve existing non-electronic processes and procedures. One SWG member used the example of physician vocabulary as it relates to test results. If we could make the vocabulary consistent, the electronic processes become exponentially easier. Among the organizations mentioned that are working in this area are the Institute for Healthcare Improvement (www.ihi.org,) and at a Michigan level, the Michigan Quality Improvement Consortium, (www.mqic.org.) Using the lessons learned from successful implementations such as MCIR and UPHCN, as well as the results of demonstration projects and ongoing

startup initiatives to facilitate implementation of HIEs. Finally, consider using administrative processes and regulations to facilitate the conversion of clinical process.

5. **Small Steps and the Effect of Time on Perception** – The SWG members felt strongly that we should use what we know to get started, start small and build on successes. In addition, consider that as stakeholders become more and more comfortable with the new systems and processes, what they are willing to try and use will evolve. Actual evidence of this was noted in the MCIR project – a public health RHIO that has operated for 10 years.
6. **Incentives and Mentoring** – Finding ways to fund the implementation of not only HIEs, but also EMRs is a major issue for this process. Several key points were raised in this solution:
    - Provide incentives to early adopters of HIE to upgrade their systems.
    - Provide incentives for planning and implementation for regional initiatives – Michigan has 8 – 10 different probable regions, all at various stages of development. Most are in the preplanning or planning stage.
    - Provide mentoring for providers who are working on EHR implementation.
    - Educate providers on the more creative ways to fund EHR implementation.
7. **Dispute Resolution** – Anticipate the need for mediation, sanctions and a clear definition of who owns the data, and the legal liability of participants.
8. **Review and Update of Laws and Statutes**– Most of the legislation that relates to HIE was crafted in the age of paper. Many need to be re-drafted to accommodate the changes required by a completely electronic process. In addition, in Michigan, these laws are scattered across volumes of regulations and legislation. (See Appendix A.) The SWG and the Legal Workgroup (LWG) *strongly* support the effort to consolidate and redraft an Electronic Healthcare Regulation.

Benefits Derived from Solutions

The HIE Resource Center will support the State of Michigan's role as convener and collaborator for Michigan HIE. This centralized body will have the ability to bring different regional exchange initiatives together by providing parameters, guidelines and support, and bridging gaps between regional efforts that are in various stages of development.

The HIE Resource Center will address the following barriers/solutions identified:

- Call to Create a Statewide Leadership & Organization Structure
- Lack of Standards
- Lack of Trust between participants
- Credentialing/Authentication issues

- Statewide Leadership and Governance Structure
- Communication and Education
- Standards, Metrics and Controls
- Use and Enhancement of Existing Resources
- Implementation via Small Steps and using Time to Build Trust
- Incentives and Mentoring

The Legislative Framework initiative will address the following barriers/solutions:

- Credentialing/Authentication issues
- Special Protections for Protected Classes of Information
- Statewide Leadership and Governance Structure
- Dispute Resolution
- Review and Update of Laws and Regulations

The Michigan HISPC has helped to foster what has become a comprehensive, multi-faceted, statewide health information exchange (HIE) implementation support process. The findings of this process that have been incorporated in the Michigan HIE implementation plans include:

- **Diversity –** Michigan is an unusually diverse state. From average income per capita to the distribution of population, coupled with the large number of nationalities represented, the HISPC project team as well as Michigan leadership realized that the approach to HIE implementation will need to be locally focused. Statewide coordination is needed, but a "one-size fits all" approach will not work.

- **The Power of Public Health** – Michigan has used the power of public health to address a wide variety of public concerns, most notably childhood immunizations. Michigan's dramatic improvement in childhood immunizations (50th/last in the nation to 9th in the nation) by creating a statewide immunization registry provides a working example of a successful implementation of HIE.

- **Consumer Attitude –** Based on the consumer outreach activities of this project, Michigan consumers appear to fully comprehend the issues, and the risks and rewards of implementing HIE. They support appropriate public health, disaster recovery, national security initiatives, and they do not support inappropriate and currently prohibited uses of health information, such as using protected health information for marketing purposes.

- **Consensus Organization** – Michigan has created, through a convergence of concurrent initiatives, a highly effective, truly representational governance structure for HIE implementation across the state.

- **Legal support** – The Legal Workgroup (LWG) identified a comprehensive list of updates and additions to Michigan laws to support HIE. In addition, the LWG is

continuing to work on tools and templates to support the statewide HIE implementation efforts.

3. Review of Michigan Implementation Planning Process

Description of State Implementation Workgroup

The creation of the HIT Commission, the funding of Regional HIE Initiatives and the creation of the Michigan HIE Resource Center will ensure that the process started by the MiHIN and the HISPC project will continue and be funded for at least another 18 months.

- **The Health Care Law Section of the State Bar of Michigan**, through its committees and programs, provides a forum for members to meet, exchange ideas, and improve knowledge and skills

- **The Michigan Department of Community Health Public Health Administration (MDCH)** is responsible for many initiatives and programs that are focused on promoting health education, preventing disease and injury and ultimately protecting the overall health of Michigan citizens. Many of the services provided are contracted through 45 local public health departments that serve every county. The Public Health Administration also is in charge of the state's vital records as well as Michigan's public health preparedness activities.

- **The Michigan Department of Information Technology (MDIT)** was created to achieve a unified, cost-effective approach for managing information technology among all Executive Branch agencies. This single department uses a strategic, statewide service approach to address the challenges of declining resources, increasing demand, security, and government transformation goals. The Department's initial charge included centralizing IT policy-making, unifying strategic information technology planning; improving information, project, and systems management; managing enterprise projects; consolidating infrastructure and application development; and addressing enterprise security needs. The enterprise level "Secure Michigan" approach provides a consistent, integrated approach across all departments and makes individual agencies less vulnerable.

- **Michigan Public Health Institute (MPHI)** By strictly adhering to the values of collaboration, excellence in service, neutrality, and integrity, MPHI has earned its role of trusted mediator. The professionals at MPHI have achieved a long record of high quality, impartial work in complex, politically-charged environments.

  MPHI is a 501(c)(3) nonprofit public charity incorporated in the state of Michigan. It was established pursuant to Michigan law, Act 368 of 1978 which permitted the Department of Community Health to establish the entity with a consortium of public universities in the state including the University of Michigan, Michigan State University, and Wayne State University.

- **HIT Commissioners,** The Commission was created "to facilitate and promote the design, implementation, operation, and maintenance of an interoperable health care information infrastructure in Michigan." The HIT Commission plans to work with

communities and stakeholders to reduce barriers and challenges to HIE and promote the growth of HIE across the state. Because each commissioner represents a class of stakeholders including consumers, providers, payers, employers, and hospitals, the HISPC team relies on their review and input to ensure that various stakeholder input is continuously part of the process.

Process Used to Assess Feasibility of Implementation Plans

The solutions have been reviewed by the Michigan Health Information Technology (HIT) Commission, which is an advisory commission within the Michigan Department of Community Health. Each commissioner serving on the HIT Commission represents a class of stakeholders including consumers, providers, payers, employers, and hospitals.

The Michigan HIT Commission has evaluated the compatibility of the solutions with other on-going or emerging initiatives in Michigan. Solutions have also been evaluated and prioritized by overall feasibility and the timing, availability and amount of resources needed, stakeholder readiness and consensus, and potential legislative changes or major process changes that may be necessary to implement the solution.

Finally, the HIT Commission has made recommendations on the priority of solutions for implementation to the Michigan Department of Community Health based on their evaluation and has determined that the HIE Resource Center is a high priority item. The HIE Resource Center has been approved for funding and is currently in the beginning stages of implementation. The Legal Framework solution was deemed necessary and preliminary planning is underway.

Description of Implementation Plans Presentation

The solutions are listed in priority order as determined by the HIT Commission. We are presenting all work plan documentation, project plans, and work product that are referenced in their entirety in the appendices. The work plan includes activities, resources required, persons responsible, timelines and schedules.

Implementation Planning Methods & Tools Used

The project team developed this report using information from interviews, reference materials, and to the degree possible, standard project management methodology.

4. Michigan Implementation Plans

Michigan Health Information Exchange Resource Center

Statewide strategy and coordination

MDCH is a department in the Executive Branch of state government under the direction of Governor Jennifer M. Granholm. The department was created in 1996 by consolidating the Department of Public Health, the Department of Mental Health and the Medical Services Administration, the state's Medicaid agency. The Office of Drug Control Policy and the Office of Services to the Aging were later consolidated with MDCH.

The Department's mission is to strive for a healthier Michigan. To that end, the department will:

- Promote access to the broadest possible range of quality services and supports,
- Take steps to prevent disease, promote wellness and improve quality of life, and
- Strive for the delivery of those services and support in a fiscally prudent manner.

In the 2005 fiscal year, MDCH had approximately 4,700 employees and had a gross appropriation of $10.1 billion, and is one of the largest departments in state government. A major function of the MDCH is managing and administering Michigan's Medicaid system, which serves more than 1.5 million residents with health care coverage. In total, with other non-Medicaid programs, MDCH provides healthcare coverage assistance to nearly one out of every seven Michigan residents. By funding the Michigan HIE Resource Center through MDCH, the project is automatically given statewide communication and outreach scope and coverage.

Implementation Plan

Most of the solutions proposed by the SWG will be implemented by the Michigan HIE Resource Center. The specific solutions addressed include:

Summary of effective practices

1. **Organize Stakeholders**
2. **Communication and Education**
3. **Standards, Metrics and Controls**
4. **Use and Enhancement of Existing Resources**
5. **Small Steps and the Effect of Time on Perception**
6. **Incentives and Mentoring**

HISPC Project Requirements

- **Effective practices to be instituted**
  - Information audits that record, monitor, and DISPLAY usage information
    - Stunningly simple, yet effective and economical, one stakeholder's system creates a listing of all users who access an EHR and displays that list each and every time anyone accesses an EHR.
  - Patient and Provider Identification/Authentication
    - One regional health initiative has created a centralized database of credentialed providers that it maintains. Facilities, provider groups and payers all agree to the base standards and share this information rather than credentialing independently. Providers are re-credentialed every three years and sanctions are monitored on a continual basis. Virtually all providers are included in every facility roster as a result.

      In addition, this regional health initiative also utilizes a type of Patient ID logic, to identify matches of EHR's using a multiple regression analysis, which takes into consideration several informational factors to ensure identification matches are correct for granting access to the proper EHR.
  - Being in a rural area and having limited funding and resources is NOT a deterrent to HIE.
    - Michigan's most innovative and complete HIE is in the Upper Peninsula, (the UP). Michigan's UP is rural by any definition.

- **Barriers mitigated** – The HIE Resource Center will address the following barriers/solutions identified:

  - Call to Create a Statewide Leadership & Organization Structure
  - Lack of Standards
  - Lack of Trust Between Participants
  - Credentialing/Authentication Issues

  - Statewide Leadership and Governance Structure
  - Communication and Education
  - Standards, Metrics and Controls
  - Use and Enhancement of Existing Resources
  - Implementation via Small Steps and using Time to Build Trust
  - Incentives and Mentoring

- **Planning assumptions and decisions –** the HIT Commission has provided the HIE Resource Center with a preliminary summary of scope. The project team is operating under the assumption that the HIE Resource Center will be able to complete the scope of work as described in the proposed planning documents..

- **Project ownership and responsibilities** – Ultimately, MDCH is responsible for the successful execution of the HIE Resource Center. The HIE Resource Center will work in collaboration with an advisory board made up of members of the HIT Commission, MDCH and MDIT. The HIE Resource Center staff will be expected to successfully execute the proposed scope as described in the planning document.

- **Project scope – The HIE Resource Center will promote sustained efforts to:**
    - Build sustainable governance structures;
    - Stay abreast of and contribute to federal efforts;
    - Promote education;
    - Foster collaboration among stakeholders;
    - Raise consumer awareness, and
    - Develop financial and human resources.

    See appendices for full project planning documentation.

- **Work breakdown structure –**
    - Planning:
        - Meet monthly with MI HIE Resource Center Advisory Board
    - Communications and Education
        - Provide update to the HIT Commission at each scheduled meeting
        - Provide full status update to the MDCH Contract Manager, Beth Nagel
            - Include current status of measures and metrics
        - Provide a mechanism to collect input and feedback from all stakeholders
        - Provide statewide education to inform key stakeholders, including Regional HIEs, consumers, employers, payers and providers about HIE, recent developments and outcomes.
            - Convene an annual Michigan HIE conference
    - Coordination and Guidance:
        - Coordinate statewide participation with national activities
        - Promote and guide regional HIEs regarding national standards
        - Serve as the primary resource for HIE information in Michigan
        - Track day-to-day activities of regional HIEs
        - Convene MiHIN workgroups to assist with specific projects or research specific topics as necessary
    - Create a website that will (at a minimum) include:
        - Mission and Vision of the Michigan HIE Resource Center
        - Address and Contact information
        - Organizational Chart
        - Status and metrics of project activities and deliverables (as appropriate)
        - Information on the annual conference
        - Links to related State websites
    - Other:
        - Other tasks as assigned by MDCH

See appendices for full project planning documentation

- **Timelines and milestones –** See appendices for full project planning documentation

- **Costs and resources required –** See appendices for full project planning documentation
- **Means for tracking, measuring and reporting progress**
    - The Advisory Board will meet monthly with HIE Resource Center Director and Staff to review monthly status report and direct on-going operations as well as special projects. The Board will be responsible for monitoring the HIE Resource Center's scope and deliverables. Meetings will be open to the public.
    - HIE Resource Center Director will provide the full HIT Commission with an update at each scheduled HIT Commission meeting.
    - HIE Resource Center Director and staff will conference weekly (at a minimum) with the Contract Manager, Beth Nagel.
    - The HIE Resource Center will develop a mechanism for representatives from regional HIEs, consumers, advocacy groups and other interested parties to provide input and feedback on HIE Resource Center activities and deliverables.
- **Impact assessment –** The HIE Resource Center will serve as a common connecting point for all Michigan HIE stakeholders, regardless of size, location or maturity.
- **Feasibility assessment –** This solution is considered feasible and probable.
- **Possible barriers –** The largest barrier to implementation of this solution is cost. MDCH is providing up to $1,000,000 as start up costs for the new HIE Resource Center. It is anticipated that future funding will include consulting and conference revenues, as well as grants and other support.

Legal Framework

Statewide strategy and coordination

To effectively accomplish the goal of integrating electronic HIE in Michigan, it is recommended that a review of the current legislative scheme that may impact or present a barrier to the electronic exchange of health information be conducted. As in many states, the legislative scheme for regulating medical records access was created contemplating a paper environment, and those laws should be reviewed to facilitate electronic medical records (EMR) and the electronic exchange of the clinical health information across multiple providers. It is likely that the State of Michigan will need to modify and/or create legislation to minimize legal and regulatory barriers to, and further incent the use of, electronic HIE. This will be accomplished while ensuring the protection of the privacy and security of electronic health information. A desired goal is to develop laws consistent with federal legislation regarding privacy and security of medical information in the event national health information exchange is achieved. Part of the approach may include implementing legislation regulating the governance and operation of organized HIE networks, utilizing a regional approach.

In developing a regulatory scheme for organized HIE networks, mechanisms to motivate the use of HIE include the development of the medical trading areas analyzed as a component of the MiHIN *Conduit to Care* roadmap. Building an infrastructure for HIE which is flexible and empowered requires comprehensive legislation so that barriers will be eliminated. Legislation created in other states may serve as a model for Michigan where those laws have been crafted to specifically address electronic exchange. Legal issues related to the formation, organization, and funding of an organized HIE network will be overseen by Department of Legal Affairs at MDCH with assistance from the Legal Work Group.

Access to medical records by patients in Michigan is resident in one public act but requirements for providers are scattered throughout Michigan Compiled Laws and the Administrative Code. Requirements for health information and medical records are defined by provider type or type of health information, and lack consistency in requirements for confidentiality, consent, security and content. Consequences for breach and disclosure also vary. This presents an opportunity for the State of Michigan to address these laws specifically for the electronic exchange of health information. Additionally, consideration should be given to developing a comprehensive uniform statute to replace the myriad of statutes that regulate medical records and the use and disclosure of specific types of health care information with consistent definitions and terminology. Attached is a draft workplan that identifies the subject matter of such proposed legislation, conflicting existing state law, model legislation found in other states or at the federal level and whether policy consensus building is required. It is in draft form only at this time.

Today, there are federal and state laws which are in conflict regarding certain issues affecting HIE, which adds to the complexity of motivating and implementing HIE. In order to encourage participation in regional initiatives by potential HIE participants, it is recommended that the State of Michigan facilitate consensus of legal opinion state-wide and develop uniform laws to remove barriers. For instance, the federal Stark law exceptions and the safe harbors to the Federal Anti-kickback Statute were recently amended in fall of 2006 to permit certain donors to donate EMR technology to physicians as part of the national goal to achieve electronic HIE. Currently in Michigan, a physician who engages in activities that do not meet a Stark exception as they existed in 2002 is subject to discipline by the licensing board. The federal Stark exceptions were amended in 2004 and in 2006, including a revision to permit donations of certain technology related to HIE. The Stark.exceptions and the safe harbors to the Federal Anti-kickback Statute were published to permit certain donors to donate EMR technology to physicians as part of the national goal to achieve electronic HIE, which is commonly seen as a critical facilitator of adoption of EMRs. It is recommended that Michigan law be amended to recognize all Stark exceptions and further, recognized the safe harbors under the Federal Anti-kickback Statute so that if permitted entities donated technology to physicians, the activities would be protected and not subject to contrary or more general state law.

MDCH is actively pursuing ways to fund the implementation of organized HIE networks and also EMRs. MDCH was recently awarded a Medicaid Transformation Grant from DHS to address provider and credentialing issues as they affect HIE. Obtaining either one or more advisory opinions from the federal government on behalf of all Michigan regional initiatives with regard to Stark Law and Anti-kickback law compliance may provide the level of clarification necessary for any gaps in the current exceptions and safe harbors. Similar consensus of opinion regarding federal security and privacy issues may also be recommended.

Implementation plan

The majority of the solutions proposed by the SWG will be implemented by the Michigan Department of Community Health.

- **Effective practices to be instituted or barriers mitigated** – The Legislative Framework initiative will address the following barriers/solutions identified:

  - Credentialing/Authentication issues
  - Special Protections for Protected Classes of Information

  - Statewide Leadership and Governance Structure
  - Dispute Resolution
  - Laws, Regulations and Statutes Review and Update

- **Planning assumptions and decisions-** The HISPC team along with MDCH and the HIT Commission will determine the priority of legislative changes that will need to be made.
- **Project ownership and responsibilities-** Melanie Brim, Bureau of Health Professions, Bureau Director will be responsible for overseeing the Dispute Resolution Process as well as any licensure affects. Beth Nagel, Health Information Technology Coordinator, is currently responsible for working with the HIT Commission and MDCH to move this solution forward.
- **Project scope-**Review and update of all applicable Michigan Laws.
- **WBS**- See appendices for full project planning documentation.
- **Project timeline and milestones**- We are currently analyzing this project planning area. This project has very recently been given a much higher priority rating and the schedule will be compressed.
- **Projected cost and resources required**- These will be recalculated based on the new timeline and milestones.
- **Means for tracking, measuring and reporting progress**- See appendices for full project planning documentation.
- **Impact assessment** - See appendices for full project planning documentation
- **Feasibility assessment –** This solution is considered feasible and probable.

- **Possible barriers** – there are a number of possible political roadblocks. The HIT Commission and MDCH, along with the LWG leadership are working to develop a plan to mitigate this risk.

Appendix A - Michigan HIE Resource Center Project Charter

Executive Overview

The HIE Resource Center will support the State of Michigan's role as convener and collaborator for Michigan HIE. This centralized body will have the ability to bring different regional exchange initiatives together by providing parameters, guidelines and support, bridging gaps between regional efforts that are in various stages of development.

Business Need/ROI

In her 2006 State of the State address and subsequent communications, Governor Jennifer M. Granholm has promoted the vision of a statewide health information network that would bring Michigan's health care into the electronic age and boost efforts to lower costs, improve quality, and increase consumer involvement. The State has chosen to create the Health Information Exchange (HIE) Resource Center envisioned in the Conduit to Care report. The HIE Resource Center will move MiHIN forward while fostering health information exchange on the regional level.

Product Description

The Resource Center will promote sustained efforts to:

1.) Build governance structures;
2.) Stay abreast of and contribute to federal efforts;
3.) Promote education;
4.) Foster collaboration among stakeholders;
5.) Raise consumer awareness, and
6.) Develop financial and human resources.

Project Manager Name and Authority Level

Project Sponsor:	Denise Holmes
Executive Director:	TBD - Control of budgets and resource allocation
Project Managers:	Dana Ashley Green & John Hazewinkel - Control of resource deployment and day-to-day activities

Key Risks

- This is a new venture for Michigan
- The number of stakeholders is large, and the group is very diverse

Assumptions

- The project will be funded at least for the first 18 months.
- Stakeholders will willingly and enthusiastically participate in the process.

Constraints

- The project will be funded for the first 18 months and will seek additional consulting and grant funding.
- .

Stakeholder Influences

- **The Advisory Board –** An Advisory board will be formed from MDCH, MDIT and HIT Commission members. The Advisory Board will meet monthly with Resource Center Director and Staff to review monthly status report and direct on-going operations as well as special projects.
- **The HIT Commission –** Resource Center Director will provide the full HIT Commission with an update at each scheduled HIT Commission meeting.
- **The MDCH** – Resource Center Director and staff will conference weekly (at minimum) with the Contract Manager, Beth Nagel, MDCH.
- **Medical Trading Areas (MTAs)** – The Resource Center will serve as a single coordination point for Michigan's HIEs by promoting and guiding the regional HIEs regarding national standards and serve as the primary resource for HIE information. The Resource Center is responsible for coordinating and tracking the day-to-day activities of Michigan's regional HIE efforts, for the purpose of consistency across regions with interoperability between regions.
- **Statewide HIE Stakeholders** – The Resource Center is in charge of ongoing statewide education of a wide array of stakeholders. The Resource Center will develop and implement an education plan to inform the key stakeholders, including Regional HIEs, consumers, employers, payers and providers about HIE, recent developments and outcomes.

Summary Level Schedule

The Resource Center is funded for 18 months. All activities must be designed to be completed in that timeframe.

Summary Level Budget

The Resource Center is funded for a total of $1,000,000, including indirect amounts. All activities and deliverables must be completed within that budget.

Signatures:

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Beth Nagel, Contract Manager, MDCH - 6/15/2007

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Denise Holmes – Project Sponsor - 6/15/2007

Appendix B - Michigan HIE Resource Center Preliminary Scope Statement

Project objectives

The HIE Resource Center will support the State of Michigan's role as convener and collaborator for Michigan HIE. This centralized body will have the ability to bring different regional exchange initiatives together by providing parameters, guidelines and support, thereby bridging gaps between regional efforts that are in various stages of development.

Product deliverables

The Resource Center will promote sustained efforts to:

1.) Build governance structures;
2.) Stay abreast of and contribute to federal efforts;
3.) Promote education;
4.) Foster collaboration among stakeholders;
5.) Raise consumer awareness, and
6.) Develop financial and human resources.

Initial WBS

- Planning:
  - Meet monthly with MI HIE Resource Center Advisory Board.
- Communications and Education
  - Provide update to the HIT Commission at each scheduled meeting
  - Provide full status update to the MDCH Contract Manager, Beth Nagel
    - Include current status of measures and metrics
  - Provide a mechanism to collect input and feedback from all stakeholders
  - Provide statewide education to inform key stakeholders, including Regional HIEs, consumers, employers, payers and providers about HIE, recent developments and outcomes.
    - Convene an annual Michigan HIE conference
- Coordination and Guidance:
  - Coordinate statewide participation with national activities
  - Promote and guide regional HIEs regarding national standards
  - Serve as the primary resource for HIE information in Michigan
  - Track day-to-day activities of regional HIEs
  - Convene MiHIN workgroups to assist with specific projects or research specific topics as necessary
- Create a website that will (at a minimum) include:
  - Mission and Vision of the Michigan HIE Resource Center
  - Address and Contact information
  - Organizational Chart
  - Status and metrics of project activities and deliverables (as appropriate)
  - Information on the annual conference

- Links to related State websites
- Other:
  - Other tasks as assigned by MDCH

Constraints

- The project will be funded for the first 18 months and will seek additional consulting and grant funding.

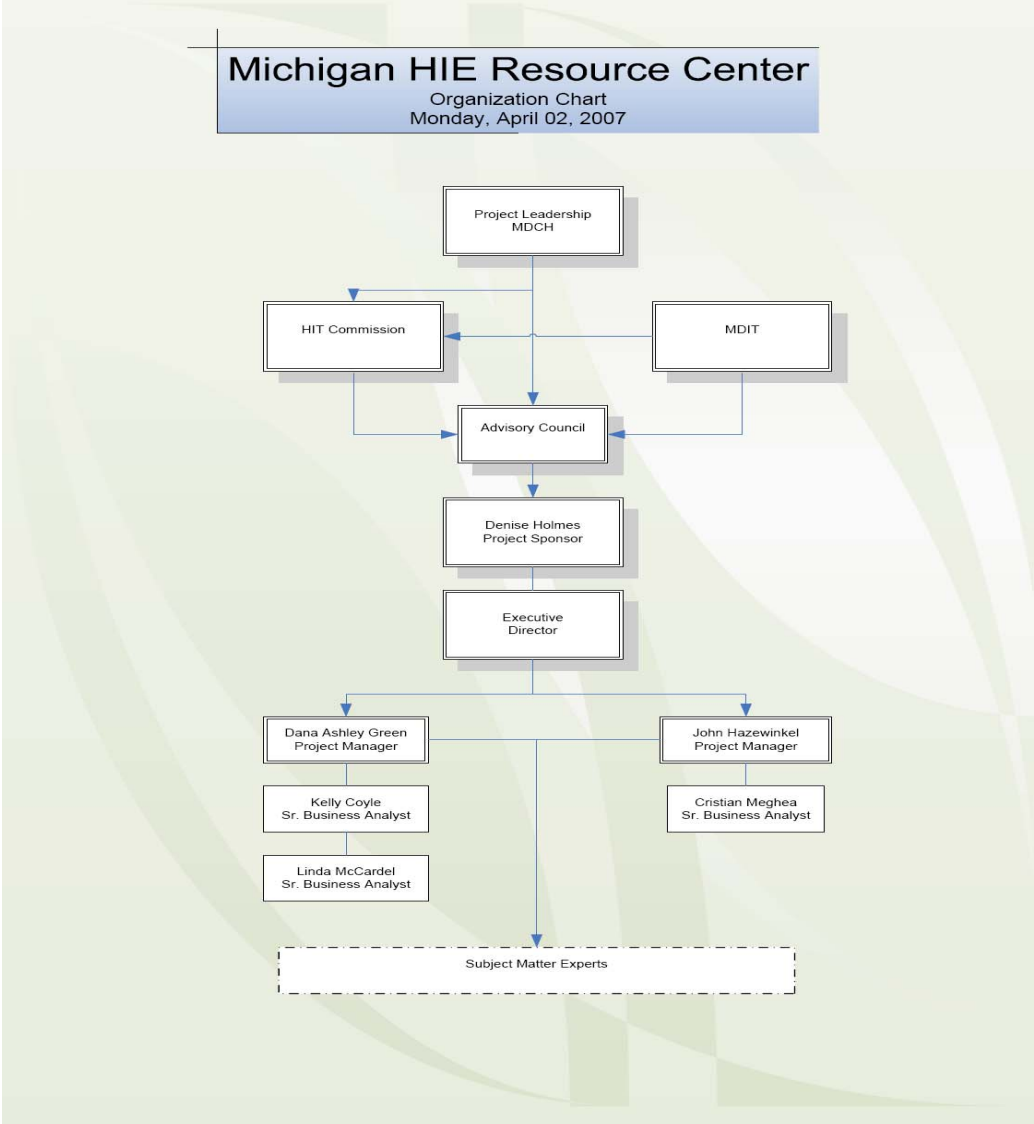
Initial assumptions

- The project will be funded at least for the first 18 months.
- Stakeholders will willingly and enthusiastically participate in the process.

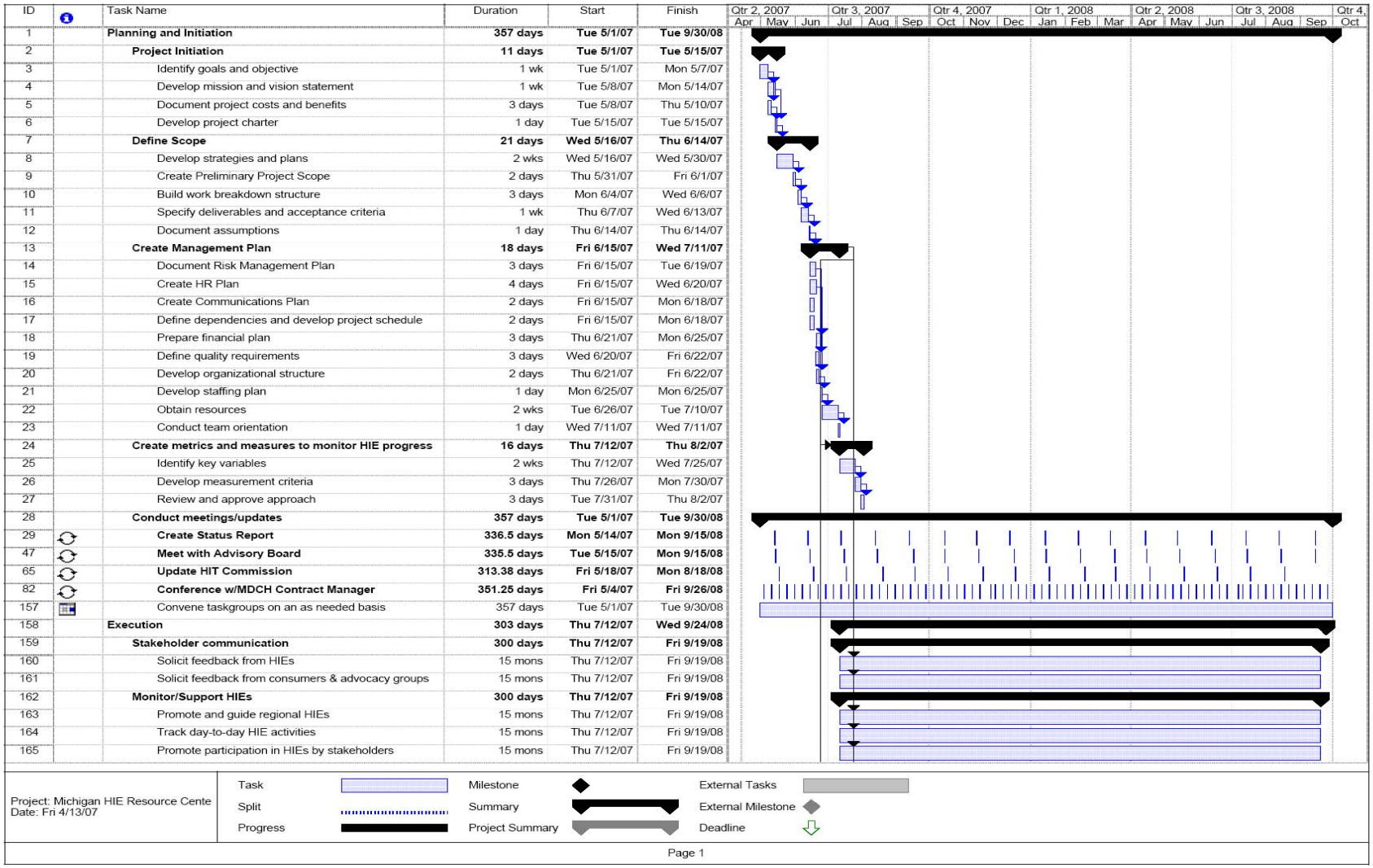
Risks

- This is a new venture for Michigan
- The number of stakeholders is large, and the group is very diverse

Initial project organization

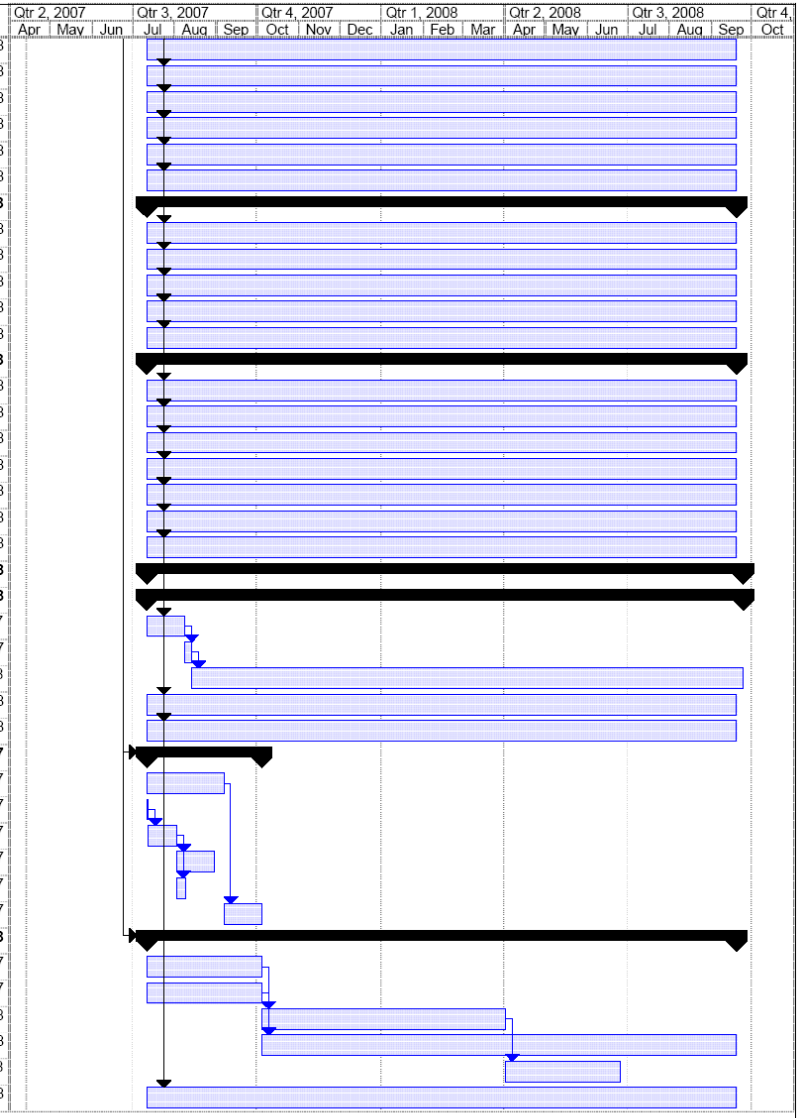


Appendix C – Michigan HIE Resource Center Workplan



ID	Task Name	Duration	Start	Finish
1	**Planning and Initiation**	**357 days**	**Tue 5/1/07**	**Tue 9/30/08**
2	**Project Initiation**	**11 days**	**Tue 5/1/07**	**Tue 5/15/07**
3	Identify goals and objective	1 wk	Tue 5/1/07	Mon 5/7/07
4	Develop mission and vision statement	1 wk	Tue 5/8/07	Mon 5/14/07
5	Document project costs and benefits	3 days	Tue 5/8/07	Thu 5/10/07
6	Develop project charter	1 day	Tue 5/15/07	Tue 5/15/07
7	**Define Scope**	**21 days**	**Wed 5/16/07**	**Thu 6/14/07**
8	Develop strategies and plans	2 wks	Wed 5/16/07	Wed 5/30/07
9	Create Preliminary Project Scope	2 days	Thu 5/31/07	Fri 6/1/07
10	Build work breakdown structure	3 days	Mon 6/4/07	Wed 6/6/07
11	Specify deliverables and acceptance criteria	1 wk	Thu 6/7/07	Wed 6/13/07
12	Document assumptions	1 day	Thu 6/14/07	Thu 6/14/07
13	**Create Management Plan**	**18 days**	**Fri 6/15/07**	**Wed 7/11/07**
14	Document Risk Management Plan	3 days	Fri 6/15/07	Tue 6/19/07
15	Create HR Plan	4 days	Fri 6/15/07	Wed 6/20/07
16	Create Communications Plan	2 days	Fri 6/15/07	Mon 6/18/07
17	Define dependencies and develop project schedule	2 days	Fri 6/15/07	Mon 6/18/07
18	Prepare financial plan	3 days	Thu 6/21/07	Mon 6/25/07
19	Define quality requirements	3 days	Wed 6/20/07	Fri 6/22/07
20	Develop organizational structure	2 days	Thu 6/21/07	Fri 6/22/07
21	Develop staffing plan	1 day	Mon 6/25/07	Mon 6/25/07
22	Obtain resources	2 wks	Tue 6/26/07	Tue 7/10/07
23	Conduct team orientation	1 day	Wed 7/11/07	Wed 7/11/07
24	**Create metrics and measures to monitor HIE progress**	**16 days**	**Thu 7/12/07**	**Thu 8/2/07**
25	Identify key variables	2 wks	Thu 7/12/07	Wed 7/25/07
26	Develop measurement criteria	3 days	Thu 7/26/07	Mon 7/30/07
27	Review and approve approach	3 days	Tue 7/31/07	Thu 8/2/07
28	**Conduct meetings/updates**	**357 days**	**Tue 5/1/07**	**Tue 9/30/08**
29	**Create Status Report**	**336.5 days**	**Mon 5/14/07**	**Mon 9/15/08**
47	**Meet with Advisory Board**	**335.5 days**	**Tue 5/15/07**	**Mon 9/15/08**
65	**Update HIT Commission**	**313.38 days**	**Fri 5/18/07**	**Mon 8/18/08**
82	**Conference w/MDCH Contract Manager**	**351.25 days**	**Fri 5/4/07**	**Fri 9/26/08**
157	Convene taskgroups on an as needed basis	357 days	Tue 5/1/07	Tue 9/30/08
158	**Execution**	**303 days**	**Thu 7/12/07**	**Wed 9/24/08**
159	**Stakeholder communication**	**300 days**	**Thu 7/12/07**	**Fri 9/19/08**
160	Solicit feedback from HIEs	15 mons	Thu 7/12/07	Fri 9/19/08
161	Solicit feedback from consumers & advocacy groups	15 mons	Thu 7/12/07	Fri 9/19/08
162	**Monitor/Support HIEs**	**300 days**	**Thu 7/12/07**	**Fri 9/19/08**
163	Promote and guide regional HIEs	15 mons	Thu 7/12/07	Fri 9/19/08
164	Track day-to-day HIE activities	15 mons	Thu 7/12/07	Fri 9/19/08
165	Promote participation in HIEs by stakeholders	15 mons	Thu 7/12/07	Fri 9/19/08

ID	Task Name	Duration	Start	Finish
166	Meet with HIEs	15 mons	Thu 7/12/07	Fri 9/19/08
167	Mediate HIE planning/cooperation issues	15 mons	Thu 7/12/07	Fri 9/19/08
168	Prepare non-funded HIEs for future State funding	15 mons	Thu 7/12/07	Fri 9/19/08
169	Identify common barriers	15 mons	Thu 7/12/07	Fri 9/19/08
170	Develop and implement solutions to common barriers	15 mons	Thu 7/12/07	Fri 9/19/08
171	Facilitate economies of scale	15 mons	Thu 7/12/07	Fri 9/19/08
172	**Statewide coordination**	**300 days**	**Thu 7/12/07**	**Fri 9/19/08**
173	Coordinate MI participation in national activities	15 mons	Thu 7/12/07	Fri 9/19/08
174	Identify and coordinate related initiatives	15 mons	Thu 7/12/07	Fri 9/19/08
175	Research and monitor funding opportunities	15 mons	Thu 7/12/07	Fri 9/19/08
176	Coordinate multi-HIE funding opportunities	15 mons	Thu 7/12/07	Fri 9/19/08
177	Maintain a list of EMT and HIE applications in use in M	15 mons	Thu 7/12/07	Fri 9/19/08
178	**Develop and Implement educational programs**	**300 days**	**Thu 7/12/07**	**Fri 9/19/08**
179	Educate HIEs	15 mons	Thu 7/12/07	Fri 9/19/08
180	Educate consumers	15 mons	Thu 7/12/07	Fri 9/19/08
181	Educate healthcare stakeholders	15 mons	Thu 7/12/07	Fri 9/19/08
182	Research and monitor national standard setting bodies	15 mons	Thu 7/12/07	Fri 9/19/08
183	Communicate standards that are applicable in MI	15 mons	Thu 7/12/07	Fri 9/19/08
184	Collect best practices and lessons learned from HIEs	15 mons	Thu 7/12/07	Fri 9/19/08
185	Conduct regional education forums	15 mons	Thu 7/12/07	Fri 9/19/08
186	**Create a communication plan**	**303 days**	**Thu 7/12/07**	**Wed 9/24/08**
187	**Create media campaigns for HIEs**	**303 days**	**Thu 7/12/07**	**Wed 9/24/08**
188	Determine messages	1 mon	Thu 7/12/07	Wed 8/8/07
189	Determine media	3 days	Thu 8/9/07	Mon 8/13/07
190	Deliver messages	14 mons	Tue 8/14/07	Wed 9/24/08
191	Create and maintain a website	15 mons	Thu 7/12/07	Fri 9/19/08
192	Create a discussion forum for inter-HIE discussion	15 mons	Thu 7/12/07	Fri 9/19/08
193	**Annual conference**	**60 days**	**Thu 7/12/07**	**Thu 10/4/07**
194	Plan content	2 mons	Thu 7/12/07	Thu 9/6/07
195	Determine dates	1 day	Thu 7/12/07	Thu 7/12/07
196	Secure site	3 wks	Fri 7/13/07	Thu 8/2/07
197	Coordinate logistics	1 mon	Fri 8/3/07	Thu 8/30/07
198	Create registration	1 wk	Fri 8/3/07	Thu 8/9/07
199	Secure speakers	1 mon	Fri 9/7/07	Thu 10/4/07
200	**HIE Toolkit**	**300 days**	**Thu 7/12/07**	**Fri 9/19/08**
201	Best practices	3 mons	Thu 7/12/07	Thu 10/4/07
202	Assist in interpretation of state & federal laws & regs.	3 mons	Thu 7/12/07	Thu 10/4/07
203	Model contract language	6 mons	Fri 10/5/07	Tue 4/1/08
204	Technical standards	12 mons	Fri 10/5/07	Fri 9/19/08
205	Standard agreements and contracts	3 mons	Wed 4/2/08	Wed 6/25/08
206	Other tasks as assigned by MDCH	15 mons	Thu 7/12/07	Fri 9/19/08

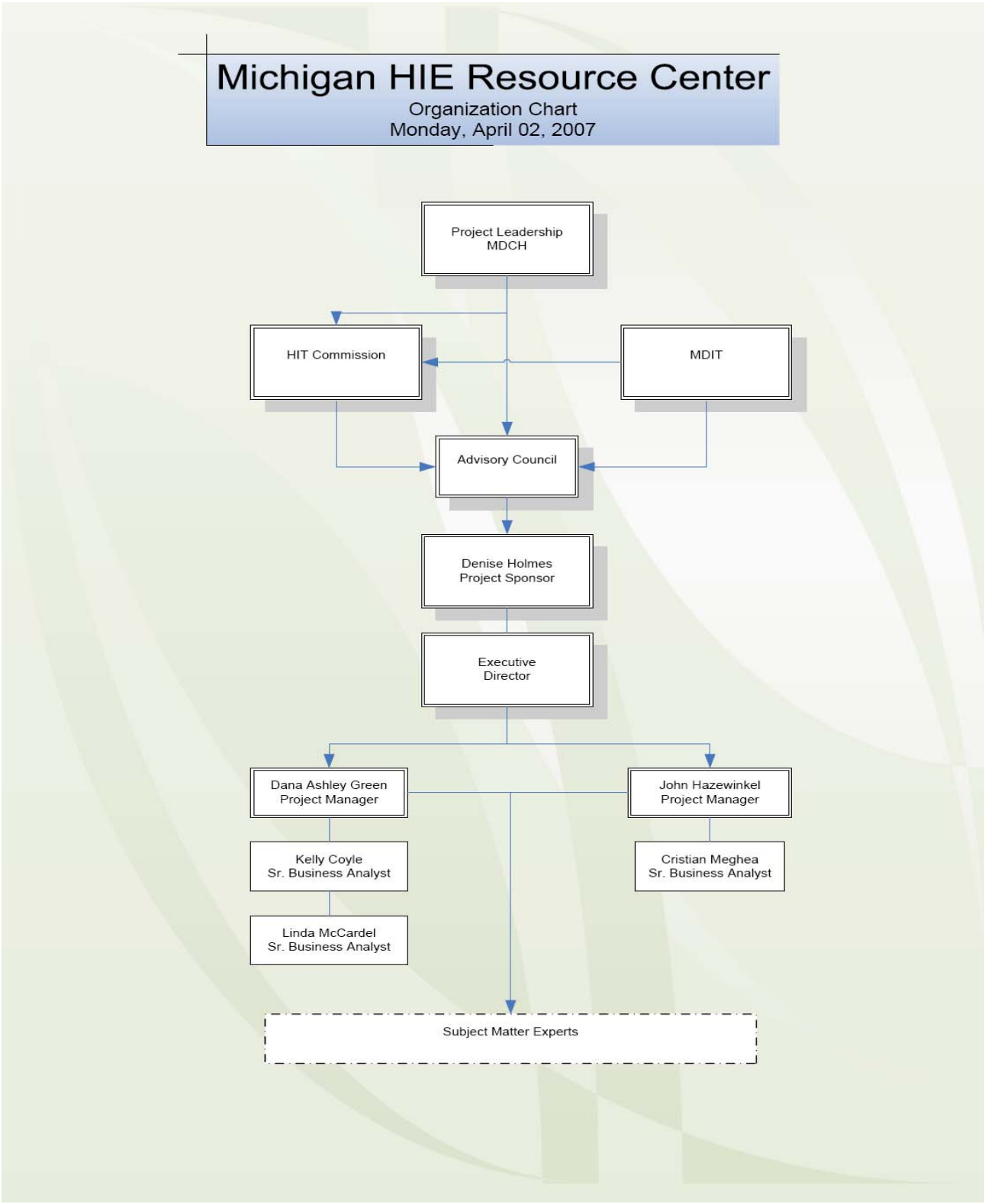


Project: Michigan HIE Resource Cente
Date: Fri 4/13/07

Task
Split
Progress
Milestone
Summary
Project Summary
External Tasks
External Milestone
Deadline

Page 2

Appendix D – Michigan HIE Resource Center Initial Project Organization Chart



Appendix E – Legislative Framework Project Plan

Subject Matter	Refer for Policy Development First	Existing Michigan Statutes for Amendment or Repeal	Comments	Other State/Federal Law & Legislative Proposals	Responsible Party	Due Date
1. **Participation in the HIE**						
a. Providers			Key task to clarify existing conflicts in Michigan law			
b. Payors	Yes					
2. **Consent For HIE**			Structure law to accommodate any medium (i.e., paper, electronic)	E-Sign (Michigan and federal)		
a. Treatment			Disclosure for treatment permitted unless patient affirmatively "opts-out" Consider whether partial opt-out will be permitted Identify "opt out" categories	HIPAA Privacy ARS 12-2294		
b. Payment			Coincide with existing federal law and Michigan law to extent that it covers "paper-based" payment & claims	HIPAA Privacy ARS 12-2294		
c. Operations (*e.g.*, peer review; quality improvement)	Yes		Define broadly, as under HIPAA, but carve out exceptions (e.g., face to face marketing of own products)	HIPAA Privacy ARS 12-2294		
d. Public health			Identify purposes, e.g., Syndromic surveillance Consider implications of automatic submission through RHIO versus directly by provider	HIPAA Privacy Indiana Illinois (H.B. 1254) – Broad definition of public health purpose		
e. Research	Yes		Issues to consider (e.g., what IRB will be used) Consider ability of provider to refuse use of PHI for research purposes Use of PHI versus de-identified or Limited Data Set	HIPAA Privacy 45 CFR Part 46 21 CFR Part 50 Illinois (H.B. 1254) – Non-profit organization designates IRB		
f. Law enforcement and bioterrorism	Yes		Disclosure of fraud found through HIE Reporting of violent injuries, abuse, etc.	Patriot Act HIPAA Privacy		
g. Special access			Reproductive health issues; abuse and neglect issues,			

Subject Matter	Refer for Policy Development First	Existing Michigan Statutes for Amendment or Repeal	Comments	Other State/Federal Law & Legislative Proposals	Responsible Party	Due Date
limitations			consent by minors to treatment without disclosure to parents, psychotherapy, HIV status, mental health, substance abuse; genetics			
(i) Modify Michigan laws that are more restrictive than HIPAA limitations on treatment disclosure (*e.g.*, HIV, mental health, substance abuse)	Yes. Consensus-building needed for these "special" areas, especially HIV and substance abuse. May involve advocacy at the federal level.		State laws to be addressed but consider more restrictive federal law, e.g., 42 CFR Part II Address advantages (prevent adverse interaction of complex drug therapies) and disadvantages (if opt out, should there be limited liability for provider) (*see also "Liability" issues below*) Consider higher level of security and heightened penalties for misuse Consider whether psychotherapy notes should be excluded from inclusion in the HIE	HIPAA Security 42 CFR Part 2 21 CFR Part 50		
h. Business Associates (defined by HIPAA) of Health Care Providers			To further operations	HIPAA Privacy		
3. **Data Security**						
a. Elements i. integrity / authentication ii. access iii. availability iv. audit trails			Permit HIPAA Security Rule compliance to be "deemed compliance" for Michigan Law Patient identifier issues	HIPAA Security Indiana (S.551) – HIPAA "deemed compliance"		
4. **Data Access, Custody, Control**			Consider consistency for Participants in more than one HIE			
a. Access rights for HIE Participants and their Business Associates			Consistent with subject matter 1 and 2 above; Address or prohibit secondary uses of data (*e.g.*, for marketing purposes)	HIPAA Privacy Colorado (S.07-074) – facility specific		

Subject Matter	Refer for Policy Development First	Existing Michigan Statutes for Amendment or Repeal	Comments	Other State/Federal Law & Legislative Proposals	Responsible Party	Due Date
b. Access rights for patients (records access and accounting)		Michigan Medical Record Access Act (MMRA)	Advocate affirmative "Opt-out" vs. "Opt-in" Consider regulating fees for access? Clarify scope of records to be produced by provider under MMRA vs. HIE. Possibility web access and consider other forms of media to provide records Address costs to patient Determine applicability of Personal health Record (PHR)	HIPAA Privacy Colorado (S.07-074) – patient can edit medical record		
c. Record Retention Requirements			Consider terms: "stewardship," "storageship," "guardianship," "custody" of data Issues of original source documentation Consistency of HIE policies with Participant policies on select issues			
d. Software vendor licensing provisions			Require software licenses be able to use technology for HIE permitted activities			
e. Public health reporting and surveillance	Yes		Require automatic generation of public health report to MDCH based on defined symptoms, conditions Current syndromic surveillance (voluntary with 62 hospitals participating) may permit HIE participation Consider ways to encourage participation in a voluntary surveillance system through HIE Consider ways to accommodate changes over time – what type of information is reported, collected			
f. Break the Glass	Yes		Narrowly prescribe circumstances			

Subject Matter	Refer for Policy Development First	Existing Michigan Statutes for Amendment or Repeal	Comments	Other State/Federal Law & Legislative Proposals	Responsible Party	Due Date
5. **Operations of HIE**						
a. Policies and procedures			Required for HIE status Consistency with Participant policies on select issues	Connecting For Health Illinois (H.B. 1254) – suspend or terminate participation rights		
b. Alternative dispute resolution			Internal to HIE participants, operations Resolution of patient (consumer) disputes?	Texas (H.B. 1066) – Complaint system		
c. Nonprofit status (organization)	Yes		Require nonprofit status for organized HIE?	Illinois, Indiana, Florida, and Texas bills would create non-profit corporation to oversee state-wide HIE		
d. Governance Issues			Provisions for winding up operations or dissolution			
6. **Tax Laws**						
a. Federal Concerns i. Community benefit ii. Tax exempt issues			Align objectives and basis for tax exemption within legislation (e.g., community benefit, charitable purposes) Legislation should expressly recognize charitable activity (promotion of health, public health objectives) of HIE			
b. State Tax Laws i. Income ii. Property iii. SBT iv. Sales and use v. Charitable exemptions			Include state incentives/deductions for private funding, participation in HIE *(See also funding/appropriations below)* Need to recognize HIE & operations under State law as tax-exempt "Check The Box" in personal state tax returns to raise money			
7. **Fraud and Abuse**						

Subject Matter	Refer for Policy Development First	Existing Michigan Statutes for Amendment or Repeal	Comments	Other State/Federal Law & Legislative Proposals	Responsible Party	Due Date
a. Donation of technology, ongoing support			How should Michigan incorporate the safe harbors to the federal anti-kickback statute? Seek input from fraud & abuse advisory group, AG's office			
b. Update of Michigan disciplinary law re Stark II		MCL 333.16221	Language developed in AG's office; intention to seek comments from private sector before finalizing rule through rulemaking process			
8. **Liability**						
a. Wrongful access and disclosure i. Incidental or inadvertent ii. Negligent vs. grossly negligent acts iii. Intentional acts			Except "incidental disclosures" consistent with HIPAA Strive for consistency with existing law (e.g., amendments to identity theft protection act, requiring notice of security breach) Criminal liability – consider whether potential for cumulative liability; eliminate if necessary	HIPAA Privacy Colorado (S.07-074) – Improper access is a misdemeanor		
b. Standard of care issues	Yes.		Should legislation define a standard of care (*i.e.*, access HIE as part of the standard?), or should this evolve under common law?			
c. Physician limited liability			If "opt out," and if patient fails to give provider information verbally, limit liability for any adverse reaction, outcome Consider whether provider could refuse to treat if no access to medical record granted (other than in emergent situations) Limit liability for reliance on information submitted by someone else that turns out to be incorrect			
d. No private right of action permitted			Consistent with HIPAA, patient must look to other laws for right of action for breach of disclosure			
e. Regulatory enforcement i. Civil penalties/fines			Look to existing law for penalties			

Subject Matter	Refer for Policy Development First	Existing Michigan Statutes for Amendment or Repeal	Comments	Other State/Federal Law & Legislative Proposals	Responsible Party	Due Date
ii. Licensure action iii. Criminal iv. Enhanced penalties for improper access to sensitive information			Criminal statute availability			
9. **Intellectual Property**						
a. Technology-neutral			Legislation will not endorse any one technology			
b. Certification of interoperability for technology			Consider whether to adopt C-CHIT certification/standards for "deemed interoperability" status but permit others as certification	Texas (H.B. 1066) – C-CHIT or other national standard		
c. Business process patent availability			May be Resource Center project			
d. Policies and procedures						
10. **Discovery & evidentiary Issues**						
a. Record retention			Consider interplay of federal (eDiscovery rules) & state regulations (e.g., "original source document") Consider prohibition or limitation or subpoenas for production of HIE documents medical records access through HIE (may require original source) Make sure MI retention laws for medical records are consistent with HIE law and/or accommodate electronic records – consolidate in MI medical records law?			
b. Best evidence rule			Scanning hardcopy into EMR should satisfy Michigan rules but see conflicting federal rules	Medicare EDI Enrollment Form		
c. E-Sign issues			Look at MI's rule re: e-sign for contracts – consolidate Michigan's e-sign rules			
d. Audit trails	Yes		If a "pointer" system, with a record existing only at			

Subject Matter	Refer for Policy Development First	Existing Michigan Statutes for Amendment or Repeal	Comments	Other State/Federal Law & Legislative Proposals	Responsible Party	Due Date
			one point in time, how to handle future disputes, litigation & discovery requests?			
11. **Emergency Preparedness**						
a. Access and use			Review existing adult MICR rules (filed in the next few weeks) Consider comments to those rules, recommend changes to accommodate these policies Consider requirements for issuance of passwords, access to volunteer health professionals			
12. **Disaster Recovery**						
a. Requirements			Adopt HIPAA security rule standards or require more stringent measures?			
13. **E-prescribing Practices**						
a. MAPS access			Consider if HIE should be a vehicle for access to this database Consider how to create interface between HIE & MAPS system			
b. Pharmacy rules			Final in December 2006, but to be analyzed by MDCH for consistency, etc. Review for consistency with HIE proposal			
14. **Funding & Appropriations**						
a. Public funding	Yes. Encourage continued support for appropriation of HIE funds		Review State seed money provision Likely cannot require appropriation	Illinois (H.B. 1254) – Non-profit corporation may solicit grants and charge fees Indiana (S.551) – Non-profit corporation;		

Subject Matter	Refer for Policy Development First	Existing Michigan Statutes for Amendment or Repeal	Comments	Other State/Federal Law & Legislative Proposals	Responsible Party	Due Date
				government may appropriate money and corporation may solicit private money Texas (H.B. 1066) – May be funded through General Appropriations Act		
b. Private funding			Consider tax and non-tax incentives to donate (*e.g.*, "electronic bricks") *See also Tax Laws above*			
15. **Definitions**						
a. "HIE"			An infrastructure to enable movement of health care information electronically across organizations within a region or community. It must also have agreed upon business relationships and processes to facilitate information sharing across organizational boundaries			

Appendix F

Overview of Michigan's Legal Framework for Health Data Release / Sharing

The following is a compilation of references to the various relevant Michigan Court Rules, Statutes, Administrative Rules, Advisory Opinions and Case law that have bearing on Health Data release and sharing. This compilation was created in order to facilitate research and compliance with Michigan law.

Michigan Court Rules	**Reference**	**Summary / Title**
	MCR 2.314	Release of Medical Information by Subpoena
	MCR 2.506	Compliance with Subpoena by Hospitals

Statutes of Michigan		
Freedom of Information Act	MCL 15.243	Items Exempt from Disclosure Under FOIA
Uniform Crime Reporting System Act	MCL 28.258	Information for LEIN
	MCL 52.205	Coroners and Medical Examiners
Michigan Vehicle Code	MCL 257.625a	Driving While Intoxicated
Aeronautics Code	MCL 259.187	Flying Aircraft While Intoxicated
Natural Resources And Environmental Protection Act	MCL 324.80182	Marine Safety
	MCL 324.81136	Off-road Vehicles
	MCL 324.82138	Snowmobiles
Critical Health Problems Reporting Act	MCL 325.75	Critical Health Data Reporting
Mental Health Code	MCL 330.1143a.	Confidentiality of Peer Review Information for Psychiatric Facilities
	MCL 330.1244	Collection of Information by MDCH
	MCL 330.1435	Civil Admission and Discharge for Mental Illness
	MCL 330.1498i	Notification to Parent or Guardian of Hospital Admission of Minor
	MCL 330.1707	Parent or Guardian Not to be Notified of Mental Health Services Provided to Minor
	MCL 330.1723	Obligation of Mental Health Professional to Report Abuse or Neglect
	MCL 330.1726	Rights of Residents of Mental Health Facilities to Unimpeded Communication
	MCL 330.1746	Maintenance of Records for Mental Health Services
	MCL 330.1748	Confidentiality of Mental Health Records
	MCL 330.1748a	Use of Mental Health Records as Evidence of Abuse or Neglect
	MCL 330.1750	Privileged Communications as

Statutes of Michigan		
		Evidence
	MCL 330.1920	Interstate Compact on Mental Health
	MCL 330.1946	Duty of Mental Health Professional to Warn

Statutes of Michigan		
Release Of Information For Medical Research And Education Act	MCL 331.531	Disclosures to Peer Review Entities
	MCL 331.533	Confidentiality of Information Utilized by Peer Review Entity
The Public Health Code	MCL 333.2221	Public Health Programs
	MCL 333.2611	MDCH's Confidentiality Policies
	MCL 333.2619	Establishment of Cancer Registry
	MCL 333.2631	Reporting or Sharing Research Information with MDCH
	MCL 333.2632	Confidentiality of Information Obtained During Research
	MCL 333.2633	Provider Liability for Disclosures to MDCH
	MCL 333.2637	MDCH Confidentiality Procedures
	MCL 333.2640	Provision of Medical Records for Child Abuse or Neglect
	MCL 333.2821	Vital Records
	MCL 333.2834	Fetal Death
	MCL 333.2835	Abortion Reporting
	MCL 333.2837	Abortion-Related Deaths or Complications
	MCL 333.2843b	Infectious Agents in Deceased Persons
	MCL 333.2844a	Release of Information to Find Missing Persons
	MCL 333.2888	Inspection and Disclosure of Vital Records
	MCL 333.5111	Prevention and Control of Disease
	MCL 333.5114	Reporting HIV Test Results
	MCL 333.5114a	Partner Notification of HIV Test Results
	MCL 333.5119	HIV Tests for Marriage Licenses
	MCL 333.5123	VD, HIV or Hepatitis B Tests for Pregnant Women
	MCL 333.5127	Consent by Minor for VD or HIV Testing
	MCL 333.5129	Communicable Disease Test Results of Prostitutes and Intravenous Drug Users
	MCL 333.5131	Confidentiality of HIV or AIDS Test Results
	MCL 333.5133	Consent Forms for HIV and AIDS Testing
	MCL 333.5611	Occupational Diseases
	MCL 333.5613	Diagnosis and Treatment of Occupational Disease
	MCL 333.5703	Toxicological Studies of Vietnam Veterans

Statutes of Michigan		
Public Health, continued	MCL 333.5715	Confidentiality of Chemical Herbicide Exposure
	MCL 333.5721	Reporting Birth Defects
	MCL 333.5874	Records of Crippled Children
	MCL 333.6111	Records of Substance Abuse Treatment
	MCL 333.6112	Permitted Disclosures of Substance Abuse Records
	MCL 333.6113	Additional Disclosures of Substance Abuse Records
	MCL 333.6121	Validity of Minor Consent to Substance Abuse Treatment
	MCL 333.6521	Confidentiality of Substance Abuse Records
	MCL 333.7334	Required Forms for Prescribing Controlled Substances
	MCL 333.7335	Marijuana Research Studies
	MCL 333.7516	Practitioner Duty to Maintain Confidentiality of Patient Information
	MCL 333.7544	Power of MBP to Authorize Research
	MCL 333.9132	Minor's Capacity to Consent to Treatment
	MCL 333.9206	Immunizations
	MCL 333.9207	Childhood Immunization Registry
	MCL 333.9307	Hearing and Vision Testing for School Registration
	MCL 333.10102	Organ Donation
	MCL 333.11101	Blood Bank
	MCL 333.16168	MDCIS to Retain Consultant
	MCL 333.16169	Health Professional Recovery Committee Personnel Duty to Report
	MCL 333.16170a	Impaired Health Professionals
	MCL 333.16211	Licensee Records
	MCL 333.16221	Licensee Investigations and Grounds for Disciplinary Action
	MCL 333.16222	Licensee or Registrant Duty to Report Violations
	MCL 333.16223	Licensee or Registrant Duty to Report Impairment
	MCL 333.16236	Examination Required for Disciplinary Investigations
	MCL 333.16238	Confidentiality of Information Obtained in a Disciplinary Action
	MCL 333.16243	Disclosure to MDCIS for Disciplinary Investigation
	MCL 333.16244	Waiver of Privilege for Disciplinary Actions

Statutes of Michigan		
Public Health, continued	MCL 333.16267	Obligation to Report Positive HIV Test Results
	MCL 333.16281	Disclosure of Child Abuse Investigation Records
	MCL 333.16644	Retention of Dental Records
	MCL 333.16645	Patient Identification on Orthodontic Devices and Dentures
	MCL 333.16648	Confidentiality of Dental Records
	MCL 333.16911	Family and Marriage Therapy Privileged Information
	MCL 333.17015	Informed Consent for Abortion
	MCL 333.17020 and 333.17520	Consent to Genetic Testing
	MCL 333.17078	Physician Assistant Privilege
	MCL 333.17752	Prescription Drug Records
	MCL 333.18117	Confidentiality of Counselor Communications
	MCL 333.18237	Privileged Disclosures to Psychologists
	MCL 333.18513	Confidentiality of Communications to Social Workers
	MCL 333.20155	Facility Accreditation and Audits
	MCL 333.20175	Patient Records
	MCL 333.20191	Infectious Agent and Emergency Treatment
	MCL 333.20201	Policies Regarding Patient Rights and Responsibilities in Facilities and Agencies
	MCL 333.20821	Requirements for Freestanding Surgical Outpatient Facility
	MCL 333.21515	Confidentiality of Hospital Peer Review Records
	MCL 333.21743	Confidentiality of Clinical Records by MDCIS, MDCH and Nursing Homes
	MCL 333.21763	Confidentiality of Communications by Nursing Home Residents
	MCL 333.21771	Mistreatment of Patients
	MCL 333.22210	Privacy Policy for Short Term Facilities
Medical Records Access Act	MCL 333.26261	Provides for Review of Access to medical Records
Social Welfare Act	MCL 400.11a	Reporting of Suspected Abuse of Adults
	MCL 400.11c	Confidentiality of Identity of Reporter
	MCL 400.64	Public Assistance Records
	MCL 400.111b	Requirements for Providers Participating in Medical Assistance Programs
Michigan Children's Institute Act	MCL 400.211	Michigan Children's Institute

Statutes of Michigan		
Adult Foster Care Licensing Act	MCL 400.712	Adult Foster Care
OSHA	MCL 408.1024	Occupational Health Standards
Worker's Disability Comp. Act	MCL 418.230	Worker's Compensation Records
	MCL 418.315	BWC's Right to Review Medical Records and Invoices
Bullard - Plawecki Right to Know Act	MCL 423.501	Bullard- Plawecki
Identity Theft Protection Act	MCL 445.61 *et seq.*	Misuse, Theft of Medical Records and Information
Uniform Electronic Transactions Act	MCL 450.831 *et seq.*	Terms and Conditions for Using Electronic Signatures and Information of Business Transactions
Insurance Code	MCL 500.115, 500.501 – .547 and 500.2013	Gramm-Leach- Bliley
	MCL 500.3407b	Nondiscrimination Based on Genetic Information
	MCL 500.3523(3)(i)	HMO Contracts
	MCL 500.8106	Insolvent Insurer Cooperation with OFIS
	MCL 500.8111	Insolvency and Liquidation of Insurers
General Insurance Law, Viatical Settlement Contracts	MCL 550.524	Viatical Settlement Contracts
3rd Party Administrator Act	MCL 550.934	Confidentiality Obligations of TPAs
Non Profit Health Care Corporation Reform Act	MCL 550.1401(3)(e)	Nondisclosure of Genetic Information
	MCL 550.1406	Duty to Maintain Confidentiality and Security of Members' Health Information
	MCL 550.1407	Complaint System
	MCL 550.1604	Confidentiality of Records/Medical Care and Hospital Services
Patient's Right to Independent Review Act	MCL 550.1907	Right to Internal Grievance and External Review Procedures
	MCL 550.1911	External Review Process
	MCL 550.1919	Standards for Independent Review Organization
Revised Judicature Act of 1961	MCL 600.2157	Waiver of Physician/Patient Privilege
	MCL 600.2912b	Notice of Medical Malpractice Action Against Health Care Provider
	MCL 600.2912f	Waiver of Privileges After Filing Medical Malpractice Claims
	MCL 600.2912g	Disclosure of Medical Records for Arbitration
MI Probate Code	MCL 710.68	Release of Information to Adopted Children and Adoptive Parents
	MCL 712A.13a	Release of Medical and Education Reports to Foster Parents
Child Custody Act	MCL 722.30	Parents' Right to Records and Information

Statutes of Michigan		
Child Protection Act	MCL 722.623	Reporting Child Abuse
	MCL 722.623a	Reporting of Child Abuse Involving Alcohol or Controlled Substances
	MCL 722.625	Protection of the Identity of Person Reporting Child Abuse
	MCL 722.626	Detention of Abused or Neglected Child by Hospital
	MCL 722.627	FIA Central Registry and Release, Amendment and Expunction of Central Registry Records
Foster Care and Adoption Services Act	MCL 722.904	Judicial Waiver of Parental Consent
	MCL 722.954	Foster Child's Confidential Information
	MCL 722.95	Medical Records for Child Placed in Foster Care
Penal Code	MCL 750.410	Prohibited Sale of Medical Records
	MCL 750.411	Injury Reporting
	MCL 750.492a	Deliberate Falsification of Medical Records
Code of Criminal Procedure	MCL 767.5a	Confidentiality of Physician/Patient Communication
Department of Corrections Act	MCL 791.267	Testing of Prisoners for HIV
	MCL 791.267b	Right of Prison Employees to Have Prisoners Tested
Social Security Number Privacy Act	MCL 445.81	Changes SSN to Private Number – Disallows use as Main Identifier
Medical Emergencies in Health Clubs	MCL 333.26311	Changes duties of health Clubs in Emergencies
PROPOSED CHANGES		
E-PRESCRIBING – NON-CONTROLLED DRUGS	ADMIN CODE R.338.471	
E-PRESCRIBING – NON-CONTROLLED AND CONTROLLED DRUGS	HB 6323	
MEDICAL RECORDS MAINTENANCE CHANGES	SB 465	
DISPOSAL OF MEDICAL RECORDS / MAINTENANCE	SB 466	
DISCLOSURE OF GENETIC INFORMATION	SB 467	
PHI EXEMPT FROM FOIA DISCLOSURE	SB 468	

Attorney General Opinions		
	Opinion No. 7092 (October 16, 2001)	Disclosure of Minor's Mental Health Records to Noncustodial Parent
	Opinion No. 6819 (September 28, 1994)	Changes to Medical Record
	Opinion No. 6764 (August 11, 1993).	Nondisclosure of Mental Health Information
	Opinion No. 6660 (September 12, 1990)	Records of Stillbirths and Fetal Deaths
	Opinion No. 6593 (July 12, 1989)	Access by Worker's Compensation or Insurance Representative
	Opinion No. 6439 (May 29, 1987)	Disclosure of Medical Records to FIA to Substantiate Payments to Providers
	Opinion No. 6376 (June 30, 1986)	Examining Records of Deceased Persons
	Opinion No. 6369 (June 9, 1986)	Rights of Next of Kin Regarding Organ Donations
	Opinion No. 6270 (January 31, 1985)	Access to Work- Related Medical Records Maintained by Employer
	Opinion No. 5709 (May 20, 1980)	County Mental Health Board and Recipient Mental Health Records
	Opinion No. 5446 (February 23, 1979)	Hospital Release of Child's Medical Records to Attorney Representing Child
	Opinion No. 5420 (December 22, 1978)	Parent or Guardian Not Required to Give Consent
	Opinion No. 5406 (December 15, 1978)	FIA Access to Child's Medical Records
	Opinion No. 5125 (May 30, 1978)	Ownership and Access to Medical Records
	Opinion No. 2994 (January 16, 1945)	Disclosure of Patient's Admissions

Michigan Administrative Code Rules		
Child Immunization Registry	Rule 325.162	Access to Childhood Immunization Registry
	Rule 325.163	Reporting Immunization Data to MDCH
	Rule 325.164	Release of Medical Records to MDCH for Review
	Rule 325.165	Right to Amend MCIR
	Rule 325.166	Confidentiality and Release of MCIR Immunization Data
Communicable and Related Diseases	Rule 325.173	Reporting of Diseases and Infections
	Rule 325.181	Confidentiality of Reports
Cancer Reporting	Rule 325.971	Reporting of Cancer Cases
Minimum Standards of Hospitals	Rule 325.1028	Hospital Medical Record Requirements
PKU Test on Newborn Infants	Rules 325.1473 and 325.1475	Laboratory Reports
Homes for the Aged	Rule 325.1851	Records of Homes for the Aged
	Rule 325.1853	Content of Homes for the Aged Records
Vital Records	Rule 325.3203	Confidentiality of Vital Records Collected by State Registrar
	Rule 325.3233	Listing of Marriages, Divorces and Deaths by Registrar
	Rule 325.3234	Inspection of Vital Records Maintained by Registrar
	Rule 325.3235	Security of Records Maintained by Registrar
Employee Medical Records and Trade Secrets	Rules 325.3451-325.3476	Maintenance and Access to Hazardous Exposure Records Maintained by Employers
Freestanding Surgical Outpatient Facilities	Rule 325.3828	Informed Consent
	Rule 325.3831	Records to be Maintained
	Rule 325.3847	Maintenance of Medical Records by Freestanding Surgical Outpatient Facilities
	Rule 325.3848	Protection of Medical Records
Health Maintenance Organizations	Rule 325.6405	HMO Contracts
	Rule 325.6805	HMO Patient Records
	Rule 325.6810	Confidentiality of HMO Clinical Patient Records
Cancer Reporting	Rule 325.9053	Information for Cancer Reporting
	Rule 325.9054	Confidentiality of Cancer Reports
	Rule 325.9055	Release of Cancer Registry Information
	Rule 325.9056	MDCH Sharing of Cancer Statistics with Other State and Federal Agencies
Spinal cord and Traumatic Brain Injury Reporting	Rule 325.9063	Reporting Spinal Cord and Traumatic Brain Injuries
	Rule 325.9064	Confidentiality of Registry Reports

Michigan Administrative Code Rules		
	Rule 325.9065	Release for Research
	Rule 325.9066	Reports to Spinal Cord and Brain Injury Registry
Birth Defects Reporting	Rule 325.9072	Reportable Birth Defects
	Rule 325.9073	MDCH Access to Medical Records
	Rule 325.9074	Birth Defect Reports
	Rule 325.9075	Release for Research
Blood Lead Analysis Reporting	Rule 325.9085	Right to Inspect Medical Records
	Rule 325.9086	Confidentiality of Blood Lead Testing Reports
Hospice Care	Rule 325.13109	Hospice Care
	Rule 325.13205	MDCIS Licensure Surveys of Hospices
	Rule 325.13213	Inspection of Licensure Records for Hospice Care Facilities
Licensure of Substance Abuse Treatment and mental Health and Substance Abuse Services	Rule 325.14205	Licensing for Substance Abuse Treatment Programs
	Rule 325.14304	Substance Abuse Treatment Program Patient's Right to Review Records
	Rule 325.14910	Content and Maintenance of Patient Records for Substance Abuse Treatment Programs
Nursing Homes and Nursing Care Facilities	Rule 325.20112	Nursing Homes' Policies for Access to Records
	Rule 325.20215	Nursing Home Licensure Records
	Rule 325.20404	Life-Threatening Accident or Injuries in Nursing Home
	Rule 325.21101	Disclosure of Nursing Home Patient Records to MDCIS
	Rule 325.21203	Medical Audits by Nursing Homes
	Rule 325.21411	Transfer Agreements Between Child Care Home and Hospital Pediatric Department
OHS for Haz. Waste Operations and Emergency Response	Rules 325.51474, 325.51881 and 325.77111	Recordkeeping Requirements for Certain Occupational Health Exposures
	Rule 325.52115	Physician's Written Opinion Regarding Employee
	Rule 325.52116	Employer Retention of Medical Records
Bloodborne Infectious Disease Standard	Rule 325.70013	Records of Vaccination and Post Exposure Follow-up
	Rule 325.70015	Employer's Duties as to Medical Records
Hazardous Work in Laboratories	Rule 325.70108	Medical Examination Records for Lab Accidents
	Rule 325.70111	Employer to Maintain Exposure and Exposure-Related Medical Records

Michigan Administrative Code Rules		
Licensing of Facilities	Rule 330.1239	Construction Requirements of Psychiatric Nursing Units
	Rule 330.1252	Public Inspection of MDCIS Records
	Rule 330.1276	Hospitals to Maintain Patient Records
Rights of Recipients	Rule 330.7051	Disclosures Regarding Mental Health Proceedings
Medical Services Administration Provider Hearings	Rule 400.3421	Medicare Provider Reviews
Adult Foster Care	Rules 400.14316 and 400.15316	Maintenance of Resident Records by Adult Foster Care Group Homes
Worker's Compensation Health Care Services	Rule 418.101402	Access by BWC

Michigan Case Law		
	Baker v. Oakwood Hospital Corporation, 239 Mich. App. 461 (2000).	Physician/Patient Privilege
	Dorris v. Detroit Osteopathic Hospital, 460 Mich. 26 (1999).	Physician/Patient Privilege
	People v. Sullivan, 231 Mich. App. 510 (1998).	Physician/Patient Privilege
	Oakland County Prosecutor v. Department of Corrections, 222 Mich. App. 654 (1997).	Physician/Patient Privilege and FOIA
	Landelius, et. al., v. Rafko, 433 Mich. 470 (1996).	Physician/Patient Privilege
	Doe v. Mills, et. al., 212 Mich. App. 73 (1995) .	Physician/Patient Privilege
	People v. Keskimaki, 446 Mich. 240, 521 N.W. 2d 241 (1994) .	Accident Exception to the Physician/Patient Privilege
	Densmore v. Department of Corrections, 203 Mich. App. 363, 512 N.W. 2d 72 (1994) .	Multiple FOIA Requests for Confidential Health Information
	Scott v. Henry Ford Hospital, 199 Mich. App. 241, 501 N.W. 2d 259 (1993) .	Disclosure to Personal Representative Regarding of Deceased
	People v. Sayles, 200 Mich. App. 594 (1993).	Physician/Patient Privilege in Subsequent Trial
	Swickard v. Wayne County Medical Examiner, 438 Mich. 536, 475 N.W. 2d 304 (1991) .	Physician/Patient Privilege and Autopsies
	Domako v. Rowe, 438 Mich. 347, 475 N.W. 2d 30 (1991) .	Waiver of Physician/Patient Privilege
	Navarre v. Navarre, 191 Mich. App. 395 (1991) .	Waiver of Physician/Patient Privilege in Child Custody
	People v. Perlos, 436 Mich. 305 (1990) .	Disclosure of Blood Samples for Criminal Prosecution
	Estate of Green v. St. Clair County Road Commission, 175 Mich. App. 478 (1989) .	Admissibility of a Decedent's Blood Alcohol Level in Civil Action
	Popp v. Crittenton Hospital, 181 Mich. App. 662 (1989) .	Release of Nonparty Medical Records
	Saldana v. Kelsey-Hayes Company, 178 Mich. App. 230 .	Invasion of Privacy
	VanSickle v. McHugh, 171 Mich. App. 622 (1988) .	Scope of Physician/Patient Privilege
	Dierickx v. Cottage Hospital Corporation, 152 Mich. App. 162 (1986).	Discovery of Nonparty Medical Records

Michigan Case Law		
	People v. Johnson, 181 Mich. App. 662 (1981) .	Release of Nonparty Medical Records
	Drouillard v. Metropolitan Life Insurance Company, 107 Mich. App. 608 (1981).	Waiver of Physician/Patient Privilege by Personal Representative
	Cartwright v. Maccabees Mutual Life Insurance Company, 65 Mich. App. 670 (1976).	Release of Physician's Oral Report to Insurance Agency
	Gaertner v. State of Michigan, 385 Mich. 49 (1971) .	Legal Representative's Access to Incompetent Minor's Medical Records
	Orlich v. Buxton, 22 Mich. App. 96, 177 N.W. 2d 184 (1970) .	Scope of Physician/Patient Privilege
	Franklin Life Ins. Co. v. William J. Champion and Co., 353 F. 2d 919 (6th Cir. 1965) .	Scope of Physician/Patient Privilege
	Polish Roman Catholic Union of America v. Palen, 302 Mich. 557, 5 N.W. 2d 463 (1942) .	Physician/Patient Privilege
	Basil v. Ford Motor Co., 278 Mich. 173, 270 N.W. 258 (1936).	Scope of Physician/Patient Privilege